

CURRENCIES

NEWS FROM TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS
FIRST QUARTER, 2005

from the
commissioner

A NEW RESOURCE

In an effort to communicate with the Department's various audiences, this is the first electronic newsletter, **Currencies**. It is our intent to share news with you at least on a quarterly basis. If you have any news you would like to share with us, please contact Nicole Lacey, Asst. Commissioner of the Consumer Resources Division and Communications Officer, at: 615-532-6992 or e-mail her at: Nicole.Lacey@state.tn.us.



COMMISSIONER
KEVIN P. LAVENDER

Loan Originators Must Register...

Law is State's First Step in
Curbing Predatory Lending Practices

The New Year ushered in the state's new loan originator law that mandates that mortgage loan originators that operate in the state must be registered with the Department. This registration is the result of an amendment to the state's Mortgage Act that was signed into law in May 2004.

The Amendment

- Requires mortgage loan originators affiliate with a single licensee.
- Requires the licensee be responsible for and supervise the originator.
- Proposes a registration fee of \$100 be paid per originator.
- Requires the registration be renewed annually.

The Department anticipates up to 10,000 originators will be registered. "This amendment gives the Department the authority to

enforce responsible standards for loan originators, thereby helping to curb predatory lending concerns," said Kevin P. Lavender, the Commissioner of the Department.

Additional details regarding this measure, as well as amendments to the Industrial Loan and Thrift Companies Act and Residential Lending, Brokering and Servicing Act can be found on the Department's web site:

www.tennessee.gov/financialinst

**LOAN
ORIGINATOR
HELPLINE
615.741.2837**

APPLICATION PROCESS

BY SHERRI WALLACE, COMPLIANCE FINANCIAL ANALYST

With an average of 320 applications for new deferred presentment and check casher entities flowing into TDFI annually, it is important that the applications are complete and accurate.

Numerous mistakes and omissions will stop the application process and that means delays for those who want to engage in the business of check cashing or deferred presentment services. TDFI Compliance Director Steve Henley said, "Only after the license application has been approved can the applicant open its doors to do business."

The following is a list of common mistakes and omissions:

- The failure of a corporation to submit either the articles of incorporation or corporate charter, as well as a state corporate identification number. In addition, the failure of limited liability companies to attach articles of organization and operating agreement.
- Applications for new locations often fail to include existing stores.
- Applications should include a telephone number for each location.
- Applicants may document that they have applied for licenses to operate within Tennessee, but they fail to include copies of licenses obtained from other state agencies. Some examples of these types of licenses include those issued for real estate, title pledge and title pawn entities.
- Proprietors often fail to submit a balance sheet prepared by a Certified Public Accountant (CPA) showing their personal net worth. This statement should include personal assets such as residence, land, marketable securities, jewelry, autos, and if any, personal liabilities. Applications must also be accompanied by a projected income statement.
- Application from a newly formed corporation or LLC does not include a CPA prepared balance sheet. Applicants sometimes think a new corporation or LLC does not have any assets or liabilities until operations begin. However, to obtain a license, the newly formed entity must still demonstrate that it meets the net worth requirements of the law.
- The CPA prepared balance sheet must also be accompanied by a signed cover letter by that certified public accountant.
- The financial statements accompanying the application must be prepared by a currently licensed certified public accountant that is independent and not affiliated with the applicant.
- All questions on the application must be answered "yes" or "no" and accompanied with proper documentation.
- The application must include a full credit report on each owner identified with the business. It is NOT acceptable for owners to submit credit ratings. A credit rating is not a substitute for a credit report.
- Applications for a new location should always be accompanied by an updated balance sheet prepared by a CPA.
- Corporations and LLCs that propose to operate as a DBA (doing business as), or under an assumed name must have the name approved by the Tennessee Secretary of State. Otherwise, the Department can not issue a license including the DBA or assumed name.
- Each license application must include a \$500 filing fee per location. Meanwhile, applications for a check cashing license must include an additional \$100 investigation fee per location, as well.
- Applicants must first satisfy the requirements of the law to obtain a license to operate and the applications are designed to acquire the necessary information to make that determination. Therefore, it's essential that a complete application be submitted before TDFI is in a position to process it.

To learn more about the TDFI Deferred Presentment and Check Cashers process, visit:

www.tennessee.gov/financialinst

INCREASE EXPLAINED

Justin McClinton, Bank Financial Analyst

A number of Tennessee state chartered banks experienced an increase in their assessments for the fiscal year 2004-05. According to Tennessee Code Annotated §45-1-118, "the maximum banking fee assessment shall not exceed the annualized fee which a state bank would pay if it were a national bank of equivalent asset size."

The Division's budget is divided among state banks according to their relative asset size by using the legislature approved budget for the current fiscal year, the respective asset size of state chartered banks in Tennessee according to the June 30 call reports, the \$5,000 assessment minimum and the ceiling of the comparable fee for a national bank operating in Tennessee.

Such factors are used to determine a rate that is then multiplied by each bank's asset size to calculate that bank's annual fee. A significant change in any of these factors can materially impact assessments.

Additional Factors That Must Be Considered

Certain expenditures were necessary this year to provide state banks with thorough, efficient and relative supervision. For example, three Information Technology (IT) examiner positions were established to ensure that Tennessee state banks are equipped with IT systems that provide efficient banking services while protecting the interest of their customers. Due to the increasing popularity of internet banking including online bill pay and other technology oriented services, a comprehensive regulation of banks' IT systems is imperative. This need is augmented by the risk inherent in technological threats posed by activity such as identity theft, phishing and account hijacking. In order to assess IT systems utilized in

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A BANNER YEAR FOR STATE-CHARTERED BANKING ACTIVITY

With new bank formations, mergers, conversions and name changes, 2004 proved to be a busy year for state-chartered banks in Tennessee. The following is a recap of 2004 bank activity.

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Six new state-chartered banks opened in Tennessee last year:

Jan. 20- MidSouth Bank, Murfreesboro

Feb. 5- American Trust Bank of East Tennessee, Lenoir City

Apr. 19- Cedarstone Bank, Lebanon

May 17- American Security Bank and Trust, Hendersonville

Aug. 30- Nashville Bank and Trust Company, Nashville

Dec. 6- Franklin County United Bank, Decherd

These new bank formations aid in the welfare of the Tennessee economy. "Banking activity continues to have a significant impact on economic development in our state," said Tod Trulove, Assistant Commissioner of the Bank Division.

Six merger transactions took place in 2004:

March 31- Peoples Community Bank in Johnson City merged into **First Community Bank, National Association** in Bluefield, Va.

Sept. 1- Cumberland Bank in Carthage merged into **Cumberland Bank South** in Franklin

Dec. 3- Bank of Dyer in Dyer merged into **Cumberland Bank** in Franklin

Dec. 11- Union Planters Bank of the Lakeway Area in Morristown merged with **Union Planters Bank, National Association** in Memphis

Dec. 31- Peoples Bank of Polk County in Benton merged with **First**

Bank of Tennessee in Spring City. **Dec. 31- Premier Bank of Brentwood** in Brentwood merged with **BancorpSouth Bank** in Tupelo, Miss.

Two conversions took place:

Jan. 1- Community Bank in Lexington (Converted from a national bank to a state-chartered bank)

Dec. 30- The Home Bank in Ducktown (Converted from a federally-chartered savings bank to a state-chartered bank)

Six state-regulated banks changed names:

Feb. 1- Bank of Moscow in Moscow changed to **The Bank of Fayette County** in Moscow.

March 19 - Citizens Bank in Gainesboro changed to **BankEast** in Gainesboro

May 28- Planters Bank of Maury City in Maury City changed to **Planters Bank of Tennessee** in Maury City.

May 28- Peoples Bank of Monroe County in Madisonville changed to **Peoples Bank of East Tennessee** in Madisonville

Sept. 1- Cumberland Bank South in Franklin changed to **Cumberland Bank** in Franklin

Dec. 15- First Source Bank in Germantown changed to **First Capital Bank** in Germantown

With all of the 2004 banking activity, this year should be just as busy. "We have continued a series of banner years and continue to see a robust interest in banking activity...All indications point to this trend continuing in 2005," said Tod Trulove, Assistant Commissioner in the Bank Division.

EDUCATION

ADVOCATING FINANCIAL WELLNESS FOR TENNESSEANS

BY CRYSTAL OLDHAM, CONSUMER EDUCATION COORDINATOR

CONSUMER RESOURCES DIVISION

In an effort to be a clearinghouse for financial information, education and assistance, the Department of Financial Institutions has recently created the Consumer Resources Division (CRD) aimed at consumer protection and education.

Staffed with seven employees, the CRD serves two main functions: to review complaints and to collaborate and partner with federal agencies, other state agencies, non-profit organizations, financial institutions and others regarding financial literacy efforts.

Why Is The Division Necessary?

As the state's chief financial institutions regulator, it is a natural fit for the Department to take a leadership role in consumer protection and financial education issues in the state.

The Department is the only state agency that has the knowledge and statutory jurisdiction to handle consumer concerns and complaints involving financial institutions operating in the state of Tennessee. The Consumer Affairs Division in the Department of Commerce and Insurance currently refers financially-related calls to the Department. With the creation of the CRD, this will help eliminate confusion and an extra step for the consumer.

"Streamlining the process reinforces the Governor's message of running state government more like a business and being more responsive to our constituencies," said Kevin P. Lavender, Commissioner.

Consumer Protection

Beyond enforcement and increased examinations, the CRD plays a key role in efforts to reduce the incidence of consumer abuse such as predatory lending.

The CRD accepts written complaints from consumers. Once a complaint is received, it is assigned to a consumer resources specialist who reviews the complaint and contacts the financial institution involved. The role of the CRD is to ensure that the

financial institution is aware of the complaint and attempts to resolve it amicably. Last year, the CRD reviewed more than 700 complaints.

"The ability to log and track complaints is key since it allows the Department to identify patterns that highlight repeat offenders in the industry, as well as determine the location of the most egregious financial practices," said Nicole Lacey, Assistant Commissioner of the Consumer Resources Division.

"Armed with this information, the Department can effectively monitor these activities and ensure corrective action is taken."

Consumer Education

While consumer protection laws may prevent some predatory lending occurrences, there is a growing belief that when consumers understand the lending process and their rights and responsibilities, they are less likely to become involved in situations that are not in their best interests.

Serving as a conduit, the Division seeks to ensure that all Tennesseans have access to financial literacy programs that will help them make sound money management decisions. The Division aims to concentrate on these main areas: basic savings, credit management and home ownership

"Education is key to eliminating financial illiteracy in the state of Tennessee...We want to assist Tennesseans in taking charge of their financial lives and to make decisions that will have a positive impact," Lacey said.

For more information, about the
Consumer Resources Division
Call 1-800-778-4215 or 615-253-2023
E-Mail: tdfi.consumerresources@state.tn.us
Go online: www.tennessee.gov/financialinst

TDFI Hosts Southeastern *NASCUS* Meeting

BY CRYSTAL OLDHAM, CONSUMER EDUCATION COORDINATOR

credit union division

The Department recently hosted a meeting between representatives of the National Association of State Credit Union Supervisors (NASCUS) and regulators from southeastern states including Alabama, Florida, Georgia, Kentucky, Louisiana and Mississippi.

The Dec. 1 meeting was part of a NASCUS initiative to further dialogue between the organization and its member state regulators.

"We continue to share the same challenges in different states and it's helpful for NASCUS members to communicate and dialogue with each other," said Roger Little, Chairman of NASCUS.

Mary Martha Fortney, NASCUS President and CEO agrees: "It is an excellent way for us to learn firsthand the concerns of state regulators."

Topics discussed at the meeting included the latest information about the Unrelated Business

Income Tax (UBIT), state taxation and the proposed Financial Accounting Standards Board (FASB) rule, which affects credit union mergers. There was also discussion about the Fair and Accurate Credit Transactions Act.

"Although most of the issues discussed are federally mandated, it is vital that state leaders have a thorough understanding of them," said Paul Foster, Acting Assistant Commissioner of the Credit Union Division.

"It is important that state regulators meet in forums of this nature to come to a consensus, if possible, on how we will we react," Foster added.

Similar meetings are planned for regulators in the Atlantic states, the Midwest, Northwest and in the Southwestern part of the nation.

TDFI tidbits

ATTENTION INDUSTRIAL LOAN AND THRIFT COMPANIES

The renewal of the Business Privilege Tax License is due **March 1, 2005**.

ASSISTANT COMMISSIONER VACANCY

Commissioner Kevin P. Lavender is seeking to fill the Assistant Commissioner position for the Department's Credit Union Division. Any energetic individual willing to discuss the possibility of taking on this important responsibility should call the Commissioner at **615-741-2236**.

2002-03 ANNUAL REPORT REVISIONS

Bank data errors have been noted on pages 20-22 of the Department's recently issued 2002-03 Annual Report. Corrections have been made and are now available online at www.tennessee.gov/financialinst/0203annualrpt.pdf. If you have any questions or need additional information, contact Tod Trulove, Assistant Commissioner of the Bank Division by e-mail at **TOD.TRULOVE@STATE.TN.US**.

DEPARTMENTAL

BULLETIN

Last December, the Department issued bulletin B-04-04 to all state-chartered banks and savings banks regarding the interpretation of Tennessee Code Annotated (T.C.A.) Section 45-2-1102 and related legal lending limit issues. The bulletin supersedes B-97-5 which clarified the Department's position regarding dates on which a bank must calculate its legal lending limit for the next quarter. To read the Bulletin in its entirety, go to www.state.tn.us/financialinst/B-04-04.html. For more information, contact Tod Trulove, Assistant Commissioner of the Bank Division at (615) 741-6013 or Tina G. Miller, Staff Attorney at (615) 532-1030.

BANK APPLICATION REPORTS

Name & Location		Nature of Change	Date Effective/Approved
OCTOBER '04	SunTrust Banks, Inc. Atlanta, Georgia	Indirect Acquisition of First Mercantile Trust Company, Memphis, TN, via SunTrust Banks, Inc., merger with National Commerce Financial Corporation, Memphis, TN	Effective: 10/1/04 Approved: 8/9/04
	BankEast Knoxville, TN	Open New Branch Facility 417 Foothills Mall Drive Maryville, TN	Effective: 10/7/04 Approved: 9/27/04
	Cumberland Bank Franklin, TN	Open New Branch Facility 4922 Columbia Highway, Spring Hill, TN	Effective: 10/12/04 Approved: 1/30/04
	First State Bank Union City, Tennessee	Close Branch Facility 768 W. Forest Avenue Jackson, Tennessee	Effective: 9/30/04 Approved: n/a
	Security Bank Newbern, Tennessee	Close Branch Facility 2160 North Central Avenue Humboldt, Tennessee	Effective: 10/29/04 Approved: n/a
NOVEMBER '04	First Bank of Tennessee Spring City, Tennessee	Open New Branch Facility 3001 Hwy. 27 Dayton, Tennessee	Effective: 10/25/04 Approved: 3/30/04
	Homeland Community Bank McMinnville, Tennessee	New Branch Facility Open: 150 North Railroad Street Morrison, Tennessee	Effective: 11/8/04 Approved: 8/16/04
	Insurors Bank of Tennessee Nashville, Tennessee	Relocate Main Office from: 2500 Hillsboro Road, Suite 102 To 2505 21 st Avenue South, Suite 204, Both locations in Nashville, Tennessee	Effective: 11/12/04 Approved: 10/25/04
	Greene County Bank Greeneville, Tennessee	New Branch Facility Open: 2621 Lebanon Road Nashville, Tennessee 37214. Using the branch name: Middle Tennessee Bank & Trust, a Greene County Bank Office	Effective: 11/15/04 Approved: 10/19/04

INCREASE EXPLAINED continued from page 3

these contexts, it is essential that Division employees are proficient in this area.

Another reason for the increase is the recent priorities that have been placed on mitigating the risk of involvement of financial institutions in money laundering and terrorist financing. Regulatory agencies are responsible for evaluating compliance in this regard. Beginning this month, the Bank Division will begin conducting Bank Secrecy Act examinations independent of any federal regulatory agency.

The Department is also replacing several computers this year in an effort to maintain efficiency. In accordance with a policy of computer replacement every three years, this equipment will be used to enhance communication internally in the Department as well as with state banks in order to allow more effective and timely correspondence.

Certain increases in salary and benefits directed by the Governor and the General Assembly also contributed to the increase in bank assessment fees. The General Assembly added funding for the three percent State employee salary increase which took effect July 1, 2004. Also, funding was added for a

one-time \$70 bonus per year of service. Additional funding was added to meet the actuarial requirements of the Tennessee Consolidated Retirement System. In addition, the General Assembly funded increased health insurance costs for Bank Division employees and increased the mileage reimbursement rate for employees who travel as part of their job.

Expenses Related to Applications

In a topic that is related to the Annual Banking Fees, efforts are being made to more appropriately allocate certain expenses related to the filing and review of applications concerning state banks, BIDCO's, savings banks and trust companies.

As part of an overall effort to develop and implement an effective and appropriate process for allocating resources, the Department has proposed certain amendments to Chapter 0180-7-.08 of *Rules of the Department of Financial Institutions* that will adjust the fees related to such applications. This will allow a more accurate reimbursement for related expenditures. For many of these fees, this is the first such adjustment in ten years.

“THE ASSESSMENT SHALL NOT EXCEED THE ANNUALIZED FEE WHICH A STATE BANK WOULD PAY IF IT WERE A NATIONAL BANK OF EQUIVALENT ASSET SIZE.”

These amendments are currently being reviewed by the Office of the Attorney General and Reporter. Following approval by the Attorney General, the amendments will then be filed with the Secretary of State who will publish them in the Tennessee Administrative Register. Once published, these amendments will go into effect after 105 days.

Banks with questions regarding assessment fees, or the Department's proposed amendments to Chapter 0180-7-.08 may contact Tod Trulove, Assistant Commissioner of the Bank Division at 615-741-2236.

BANK APPLICATION REPORTS

Name & Location	Nature of Change	Date Effective/Approved
Bank of Dyer Dyer, Tennessee	Merged with and into Cumberland Bank, Franklin, Tennessee Under the Title of Cumberland Bank	Effective: 12/3/04 Approved: 11/5/04
Farmers & Merchants Bank Dyer, Tennessee	Purchase and Assumption of Three Offices of Bank of Dyer, Dyer, Tennessee Resulting in three new branches at (1) 2535 N. Central Avenue, Humboldt, Tennessee (2) 126 S. Main Street, Dyer, Tennessee (3) 316 N. 22 nd Avenue, Hum- boldt, Tennessee	Effective: 12/3/04 Approved: 11/5/04
Union Planters Bank of the Lakeview Area Morristown, Tennessee	Merged with and into Union Planters Bank National Associa- tion, Memphis, Tennessee	Effective: 12/11/04 Approved: n/a
First Source Bank Germantown, Tennessee	Charter Amendment to Change Name to: First Capital Bank	Effective: 12/15/04 Approved: 11/3/04
Greene County Bank Greenville, Tennessee	Purchase and assumption of three branch facilities of National Bank of Commerce. Branches will operate as locations of Greene as Bank of Lawrence County, a branch/division of Greene County Bank at the following locations: 1) 14 Public Square, Lawrenceburg, TN (2) 1700 North Locust Street, Lawrenceburg, TN (3) 202 South Main Street, St. Joseph, TN	Effective: 12/10/04 Approved: 10/13/04
Community Trust & Banking Company Ooltewah, Tennessee	New Branch Facility Open: 4712 Hixson Pike, Hixson, TN	Effective: 12/1/04 Approved: 6/9/04
Franklin County United Bank 2030 Decherd Boulevard Decherd, Tennessee 37324 Phone Number: 931/968-3282 Orville Eugene (Gene) Seaton, President and CEO	New Bank Open	Effective: 12/6/04 Approved: 11/3/04
First Bank, Lexington, Tennessee	New Branch Facility Open: 625 South Gay Street, Suite 230, Knoxville, Tennessee	Effective: 12/1/04 Approved: 10/28/04
The Home Bank, FSB Ducktown, Tennessee	Converted from a federally chartered savings bank to a Ten- nessee state chartered Commercial bank to be called The Home Bank.	Effective: 12/30/04 Approved: 12/20/04
Peoples Bank of Polk County Benton, Tennessee	Merged with and into First Bank of Tennessee Spring City, Ten- nessee under the title of First Bank of Tennessee	Effective: 12/31/04 Approved: 9/10/04
Bank of the South Mt. Juliet, Tennessee	Consolidation of Branch at 419 Sam Ridley Parkway, Smyrna with 69 South Lowry Street Office, Smyrna, TN	Effective: 12/1/04 Approved: N/A
Premier Bank of Brentwood Brentwood, Tennessee	Merged with and into BancorpSouth Bank, Tupelo, MS	Effective: 12/31/04 Approved: N/A
Citizens Community Bank Winchester, Tennessee	New Branch Facility Open: 2176 Decherd Boulevard, Decherd, TN	Effective: 12/21/04 Approved: 6/10/04

DECEMBER '04

CURRENCIES

Published by the State of TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS

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